HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Second Appeal No. 456/2007

Appellants/ Plaintiffs

1. Ramcharitra, S/o Ramadhin Sahu, Aged about 55 Yrs;
2. Rajeshwar, S/o Ramadhin Sahu, Aged about 35 Yrs. Both Resident of Village Katgodi, Tahsil Baikunthpur, Distt. Korea (C.G.)

Versus

Respondents/ Defendants

1.(a) State of Chhattisgarh, Through Collector, Korea, Baikunthpur, Distt. Korea (C.G.)

(b) Additional Collector, Korea, Baikunthpur, Distt. Korea (C.G.)

(c) Sub Divisional Officer (Revenue), Baikunthpur, Distt. Korea (C.G.)

2. Village Panchayat Katgodi Through

(a) Sarpanch, Village Panchayat Katgodi, Tahsil Sonhat, Distt. Korea (C.G.)

(b) Secretary, Village Panchayat, Katgodi, Tahsil Sonhat, Distt. Korea (C.G.)

Memo of Appeal Under Section 100 of the Code of Civil Procedure

Present : Shri Prakash Tiwari, counsel for the appellants.
Shri Akhil Agrawal, Panel Lawyer for the State/respondents No.1(a)(b) and (c).

ORAL ORDER
(Passed on 1st November, 2007)

Heard on admission.

2. The appellants are aggrieved by the judgment and decree dated 10-08-2007 passed by District Judge, Korea (Baikunthpur) in

Civil Appeal No. 19-A/2006 whereby the judgment and decree dated 31-01-2006 passed by the Civil Judge, Class-I, Baikunthpur in Civil Suit No.25-A/1998 dismissing the plaintiffs' suit was affirmed.

3. Learned counsel for the appellants did not dispute that the claim of the appellants was based on the right of easement and that the construction of Aanganbadi Bhawan was done on Government land.

4. Having considered the submission, I have perused the judgment of the lower Appellate Court as also of the trial Court. Both the Courts below on appreciation of evidence oral as well as documentary recorded a finding of fact that no hindrance in any manner is caused in the right of easement of the plaintiffs by the construction of Aanganbadi Bhawan. The lower appellate Court has, in para 16 of the judgment also considered the admission made by the plaintiffs and his witnesses to that effect.

5. In this view of the matter, I am of the considered opinion that in view of the concurrent finding of fact recorded by both the Courts below, no substantial question of law arises for determination in this appeal.

6. The appeal is dismissed at the stage of admission.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Kvr